



Paper No. 8

TOWNSEND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

MAY 10 2001

**SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS**

In re Application of
Murphy, et al.
Application No. 09/301,380
Filed: April 27, 1999
Attorney Docket No. 20093A-00210

:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 30, 2001, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to properly reply to the Notice to File Missing Parts of Application mailed July 30, 1999. This Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 1, 1999. A Notice of Abandonment was mailed on May 2, 2000.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The instant petition lacks item (1), the required reply.

Although petitioner did submit a Declaration and Power of Attorney with his petition as the reply to the Notice to File Missing Parts of Application, the declaration is incomplete. When an inventor is deceased, insane, or incapacitated, then a legal representative may sign the declaration on the inventor's behalf. The declaration should state the inventor's full name, citizenship, and residence and mailing address (or the last known addresses). The legal representative should sign the declaration on the inventor's behalf (usually above the inventor's name). Per 37 CFR 1.64, the declaration **must state** that the representative is a legal representative, and **the citizenship, residence, and mailing address of the legal representative**. Here, the declaration lacks the legal representative's

citizenship, residence, and mailing address.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231
By facsimile: (703) 308-6916
Attn: Office of Petitions
By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy